

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7868 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgement?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

LALBHAI RUPABHAI DAMOR

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Appearance:

MR HS MUNSHAW for Petitioner

MR GK RATHOD for Respondent No. 1

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CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 05/12/2000

ORAL JUDGEMENT

The petitioner, Gujarat State Road Transport Corporation, has filed the present petition challenging the Award dated 14th December, 1999 passed by the Labour

Court, Godhra in Reference (LCG) No.58 of 1997, which is at Annexure 'F' to the petition. By the aforesaid Award, the concerned workman, i.e. the respondent herein, was subjected to penalty, by which the order of removal was substituted by the Labour Court by withholding of two increments with permanent effect and also without giving any back wages.

The respondent was serving in the S.T. Corporation as a Conductor and at the relevant time, he had put in about 9 years of service as Conductor. That on 24.12.1995, he was discharging his duty on the route of the bus between Dahod and Dasla and at that time, there was a checking of the bus and it was found that he had not given tickets to five passengers though he had collected the fare of Rs.10/-. He was, therefore, subjected to departmental enquiry on the ground that even though he had collected the fare, he had not given tickets to five passengers of one group. After conclusion of enquiry, he was subjected to the penalty of removal. The respondent-workman thereafter had raised the aforesaid Industrial Dispute. The Labour Court, on appreciation of evidence, found that looking to the fact that there was checking only at a short distance, it can be presumed that there was no intention of cheating on the part of the Conductor, but he can be stated to be negligent in discharging his duties. It was found that there was serious negligence on his part. The Labour Court, ultimately, while exercising powers under Section 11A of the Industrial Disputes Act, substituted the penalty of removal, as stated earlier. The Labour Court has also considered the past record of the concerned workman. Ultimately, the Labour Court found that penalty of withholding of two increments with future effect will be the appropriate punishment.

In view of Section 11A of the Industrial Disputes Act, the Labour Court has, no doubt, right to interfere with the punishment if it is found to be excessive or not warranted from the facts of the case. However, considering the fact that the concerned workman is serving in the S.T. Corporation since long and since it has been found by the Labour Court on appreciation of evidence that there was no intention of misappropriation, I am not interfering with the aforesaid order so far as setting aside the order of removal is concerned. However, in order to see that there may be some deterrent effect on the concerned workman and in order to see that he will not repeat such type of misconduct, it is just and proper to substitute the punishment of withholding of two increments with future effect to withholding of three

increments with future effect, coupled with the fact that no back wages are to be given to the concerned workman for the interim period.

In the facts and circumstances of the case, this Special Civil Application is partly allowed and the aforesaid punishment is modified to the effect that instead of withholding of two increments with permanent effect, the same is substituted by withholding of three increments with future effect.

Mr.N.D. Songra, appearing for Mr.G.K. Rathod, appearing for the respondent, has no objection if the penalty is suitably modified by this Court so that there may be some deterrent effect on the concerned workman.

In the facts and circumstances of the case, the Award of the Labour Court is modified and instead of withholding two increments with future effect, the same is substituted to the effect that three increments of the respondent-workman will be withheld with future effect.

Rule is made absolute to the aforesaid extent with no order as to costs.

Mr. Munshaw says that the concerned workman will be reinstated in service as early as possible and latest by 31st December, 2000.

5th December, 2000 ( P.B. Majmudar, J. )

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(apj)